

**To:** Tom Hagler/R9/USEPA/US@EPA[]  
**From:** "Obegi, Doug"  
**Sent:** Thur 10/15/2009 10:46:35 PM  
**Subject:** FW: BDCP governance proposal  
2009-10-12 (12 noon) BDCPGovernance Co-Chairs Proposal clean v2 (2).doc

This is very important.

From: Obegi, Doug  
Sent: Thursday, October 15, 2009 3:14 PM  
To: 'David Nawi'; 'David Nawi (David\_Nawi@ios.doi.gov)'  
Subject: BDCP governance proposal

Hi David,

This issue of who controls water project operations, how much say the fishery agencies have in regulating operations, and whether the water agencies are put on a strict budget in terms of how much water they can require for environmental protections, are coming to a head within the BDCP process. The fish agencies (and I believe USBR), have significant concerns with the attached proposal, as does most of the environmental community, for the obvious reasons. Indeed, in light of the Kempthorne and Gutierrez decisions over the 2004 BOs, this proposal quite likely would be illegal under the ESA, because it would prevent the fishery agencies from having the final say in ensuring that operations avoid causing jeopardy, limit the resources that can be used to avoid jeopardy, etc. There are numerous other problems with this proposal as well.

If you have some time next week I'd love to talk with you about this. We're trying to find a way to avoid a train wreck here, but this proposal is a nonstarter.

Enjoy Yosemite. It should be beautiful up there.

Thanks,

Doug

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Doug Obegi

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